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AUTHOR Fischer-Wylie, Shelley M.; Torres, Judith Stern
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ABSTRACT

A study examined how long it took 23,044 K-12 limited-English-proficient (LEP) students to lose their legally mandated entitlement to bilingual and English-as-a-Second-Language (ESL) classes. All students had been in an English-language school for one year or less as of spring 1982 and all were followed until spring 1986. Three groups roughly corresponding to elementary, middle, and high school grade cohorts were examined. Results show that although most new-entrant LEP students will lose entitlement after 4 years, students in lower grades are more likely to exceed the 20th percentile on the Language Assessment Battery (LAB) and do so more quickly than students in upper grades. At the high school level, nearly two-thirds leave school while still entitled. In light of the results and a recent New York State Education Department recommendation that the entitlement cutoff point be raised to the 40th percentile on the LAB, it is recommended that administrators (1) consider developing accelerated programs or programs articulated with jobs or postsecondary education, for those students still entitled; (2) consider developing programs for students who will score low despite length of service; and (3) monitor academic progress of formerly entitled students and provide services when necessary. (MSE)

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LOSING ENTITLEMENT:
DOES GRADE MAKE A DIFFERENCE

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Shelley M. Fischer-Wyllie
Judith Stern Torres
Office of Research, Evaluation, and Assessment
New York City Board of Education

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SUMMARY

The third in a series on language-minority students that uses a comprehensive data file begun in 1982, this report examines how long it took 23,044 kindergarten through twelfth-grade limited English-proficient (LEP) students to lose their legally mandated entitlement to bilingual and English as a second language classes. All of the students had been in an English-language school for one year or less as of spring 1982 and were followed until the spring of 1986. The characteristics of the target population were similar to the populations of the previous studies, although more non-Hispanic language minority students were included.

Researchers divided the population into three groups roughly corresponding to the elementary, middle and high school grade levels, with nearly 60 percent of the students in the K-3 cohort and about 20 percent each in the grades 4-7 and grades 8-12 cohorts. The study revealed that although most students in the population of new-entrant LEP students will lose their entitlement after four years, the students in the lower grades are more likely to exceed the twentieth percentile on the LAB test--and to do so more quickly--than students in the upper grades. At the high school level, nearly two-thirds of the students leave school while still entitled to bilingual/E.S.L. services, although many of these students graduate or transfer to another school. OREA is undertaking a longitudinal study to determine the reasons why LEP high school students drop out of school, as well as one which will examine the academic progress of formerly entitled students.

The Regents of the New York State Education Department recently recommended that the entitlement cutpoint be raised from the twentieth to the fortieth percentile on the LAB. In light of this change, and the findings of this study, OREA recommends that administrators:

- consider developing accelerated programs, or programs articulated with jobs or post-high school education, for high school LEP students who are likely to leave school before achieving competency in English;
- consider developing programs for students who will continue to score below the entitlement cut point on the LAB regardless of how long they may be served; and
- carefully follow the academic career of formerly entitled students to make sure that they are progressing satisfactorily, and to provide additional services where necessary.

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LOSING ENTITLEMENT:
DOES GRADE MAKE A DIFFERENCE?

I. INTRODUCTION

Definition of English-language Proficiency

A question often asked of bilingual educators and administrators of bilingual programs is, "Do students in different grades differ in terms of how long it takes to learn English when they enter United States schools speaking another language?" This is not as simple a question as it seems, because it presupposes that there is a point at which a student suddenly becomes English speaking, and that such a point has been identified by educators and researchers. In fact, becoming fluent in English is a process that varies with each student and depends on many factors, such as ability, age, type and length of instruction, and amount of English language exposure outside of school. In addition, functional definitions of adequate English proficiency vary widely, ranging from conversational fluency to grade-appropriate academic performance. Therefore, it is important to define the term "English proficiency" as it is used in this study.

Title VII of the Elementary and Secondary Education Act of 1965 defined a limited English-proficient (LEP) child as one whose home language is not English, and whose lack of knowledge of English prevents him or her from effectively participating in

classrooms where the language of instruction is English.* The definition of what constitutes "effective participation" varies from state to state and city to city, however. In New York City, a lawsuit against the city brought on behalf of Hispanic children resulted in the Aspira Consent Decree,** in which the Board of Education agreed that Hispanic students whose home language was Spanish and who scored at or below the twentieth percentile on a test of English proficiency*** were entitled to receive bilingual or English as a Second Language (E.S.L.) services. In 1977, a similar agreement was reached between the Board of Education and the federal Office of Civil Rights on behalf of non-Hispanic students whose home language was other than English.****

*Federal Register, Vol.51, No.118. Thursday, June 19, 1986, page 2242. An original definition of limited English proficiency appears in the Bilingual Education Act (Public Law 95-561), Education Amendments of 1978.

**Aspira et. al. v. Board of Education et. al., 1974.

***The test developed by the New York City Board of Education to determine entitlement to bilingual/E.S.L. services was the Language Assessment Battery (LAB). The LAB was designed to measure English proficiency across the four language domains of listening, speaking, reading, and writing, and was normed on a local population.

****See Agreement Between the Office for Civil Rights and the Board of Education of the City of New York on September 15, 1977. This particular agreement was the outcome of a 1974 Supreme Court decision in the case of Lau v. Nichols, and is sometimes referred to as the "Lau Plan."

It is important to be aware that the twentieth percentile cutoff point on the LAB was the result of a legal compromise based neither on empirical research nor behavioral criteria. Setting the cutoff point at this level effectively meant that students in bilingual classes are mainstreamed into monolingual classes when they exceed a level equivalent to that reached by the bottom fifth of their mainstream classmates on a test of English proficiency. Ironically, under federal and state guidelines, monolingual students who score at this point are entitled to remediation in English,* and in this sense are probably not participating "effectively" in their other classes. Furthermore, because the exit point from bilingual/E.S.L. programs is so low, monolingual teachers' expectations of students previously classified as LEP--particularly those students who just surpass the twentieth percentile on the LAB--may be unrealistic; that is, they may expect these students to be fully functional in English, when in fact the students may be able to function only at a relatively low level.

The present study relates only to bilingual students' length of entitlement as defined by New York City's legal mandates, and cannot be considered a study of the length of time it takes LEP students to function effectively in English. We

*In theory, under federal and state guidelines, any student who scores below the fiftieth percentile ("grade level") on the citywide reading or writing test is entitled to remediation in these areas. In actuality, however, the cutoff point is usually about the twenty-sixth percentile, due primarily to limitations in the amount of state or federal funding available to pay for this remediation.

hope, however, that it will add clarity and perspective to the debate on what educators understand and accept as "English proficiency." It will also give us, for the first time, a longitudinal view of individual LEP students' acquisition of English in New York City schools.

DESCRIPTION OF THE STUDY

In 1982, the Office of Educational Evaluation (O.E.E.)* created a comprehensive longitudinal data file on the New York City public school system's large and diverse population of language-minority (L.M.) students--that is, students whose home language was not English. Basically, the file included all students who took the LAB test that year, and enabled O.E.A. for the first time to study these students systematically and fill gaps in the information available to educational administrators responsible for designing and improving services for them.

The present report tracks LEP students' acquisition of English proficiency in grades kindergarten through twelve over the four-year span from spring 1982 to spring 1986. To ensure that the students' English acquisition took place during the time of the study and was only minimally influenced by prior exposure to the language, a subsample of 23,044 "new entrants" was chosen from the original group. New entrants were defined as having a year or less experience in an English-language

*The Office of Educational Assessment (O.E.A.) was established in 1984. It combined O.E.E. with part of the Office of Student Information Services (O.S.I.S.) and the Office of Testing. In fall 1988, O.E.A. was reorganized and renamed the Office of Research, Evaluation, and Assessment (OREA).

school system, based on information from the LAB answer sheets and the Bilingual Education Student Information System (BESIS).*

This cohort represents 31 percent of the original cohort; the remaining 53,000 students had two or more years' experience in an English-language school system and were therefore excluded from the analysis. Like its predecessors, this study includes students from all of the varied linguistic and cultural groups in New York City. Unlike our previous studies, however, this one follows only new entrants.

Using data based on students' demographic and test records, the present report addresses the following question:

- How long does it take for newly-arrived LEP students in grades kindergarten through twelve to lose entitlement to bilingual/E.S.L. services, according to New York City's legal criterion?

CONTENTS OF THIS REPORT

Part I of this report outlines the questions addressed by the study. Part II presents the methodology used in the study. Part III examines students' gains in English-language proficiency, as reflected in their loss of entitlement to bilingual/E.S.L. services. Part IV presents some implications of the findings and makes recommendations for serving the limited English-proficient student population.

*The BESIS is a survey of students entitled to and/or participating in bilingual/E.S.L. programs. It has been conducted by the New York City Board of Education on an annual basis since the 1982-83 school year.

II. METHODOLOGY

The data used in this report are based on demographic and test records for 23,044 students in kindergarten through twelfth grade who had recently entered the New York City public schools and were entitled to bilingual/E.S.L. services in the spring of 1982. Entitlement status was determined by a student's native language and his or her performance on the English-language version of the LAB.* Students' performance on the English LAB was followed from spring 1982 to spring 1986.

New York City regulations require that entitled students be retested on the LAB each spring. For the purposes of this study, a student's "final" entitlement status was defined both by his or her most recent results on the LAB, and by his/her presence in the New York City school system in spring 1986.

Students still in the system in spring 1986 were given one of three classifications:

- those who had exceeded the twentieth percentile on the LAB within the last four years were classified as unentitled/in the system;
- those who had a spring 1986 LAB test score which was below the twenty-first percentile were classified as entitled/in the system; and
- those who were lacking a spring 1986 LAB score and had not passed the LAB previously were classified as not retested.

*In 1982, Spanish-speaking students were considered to be entitled only if they attained a higher percentile rank on the Spanish-language version than the English-language version. This additional requirement for Spanish-speaking students was dropped in 1983.

Students who were no longer in the system* were classified as untitled/left the system if they passed the LAB prior to leaving the system, and as entitled/left the system if their last LAB score had not exceeded the twentieth percentile before they exited the system.

Caveats

As the discussion following will indicate, two factors interfered with measuring the amount of time taken to lose entitlement more precisely. One factor was that 30 percent of the original cohort had left the city school system by the spring of 1986, by moving out of the city, transferring to a private school, graduating, dropping out, etc. Secondly, approximately 14 percent of the students who remained in the school system were not appropriately retested to determine their entitlement status. The impact of these factors varied, being greatest at the high school level and least in the early grades. Since attrition was particularly high among the high school students in our sample, caution must be exercised in generalizing the findings about how quickly these LEP students acquire English proficiency.

*Data from the Board of Education's Biofile were used to determine the academic year when students left the system. The Biofile contains student identification and enrollment data.

III. FINDINGS

Characteristics of the 1982 New-Entrant Cohort

Information about students' backgrounds was obtained from BESIS, Biofile, and LAB records. The 1982 cohort of LEP new entrants used in the study was almost evenly split between males (50.3 percent) and females (49.7 percent). The home language of most of these students was Spanish (74 percent); Chinese and Haitian Creole represented the next two largest language groups (7 and 4 percent, respectively). The remaining 15 percent of the target population had other home languages, such as Korean, Russian, and Italian (see Table 1). This distribution differs from that of the first study in that it contains a higher proportion (nearly 4 percent) of non-Hispanic language-minority students, a trend which has continued in New York City since 1982.

Almost half (49 percent) of the students in our new-entrant cohort were in the appropriate grade for their age. On the other hand, 50 percent were overage for their grade by one (30 percent), two (13 percent), three (5 percent), or four (2 percent) years, and one percent were underage for their grade by one year. This picture is similar to that noted in our first study.

TABLE 1

Home Languages of New Entrant LEP Cohort
Spring 1982

Home Language	<u>Students Tested</u>	
	Number	Percent
Arabic	204	0.9
Chinese	1,541	6.6
French	180	0.8
Greek	228	1.0
Haitian Creole	894	3.8
Italian	383	1.6
Korean	524	2.2
Russian	229	1.0
Spanish	17,351	74.1
Vietnamese	282	1.2
Other	<u>1,615</u>	<u>6.9</u>
Total	23,431	100.0

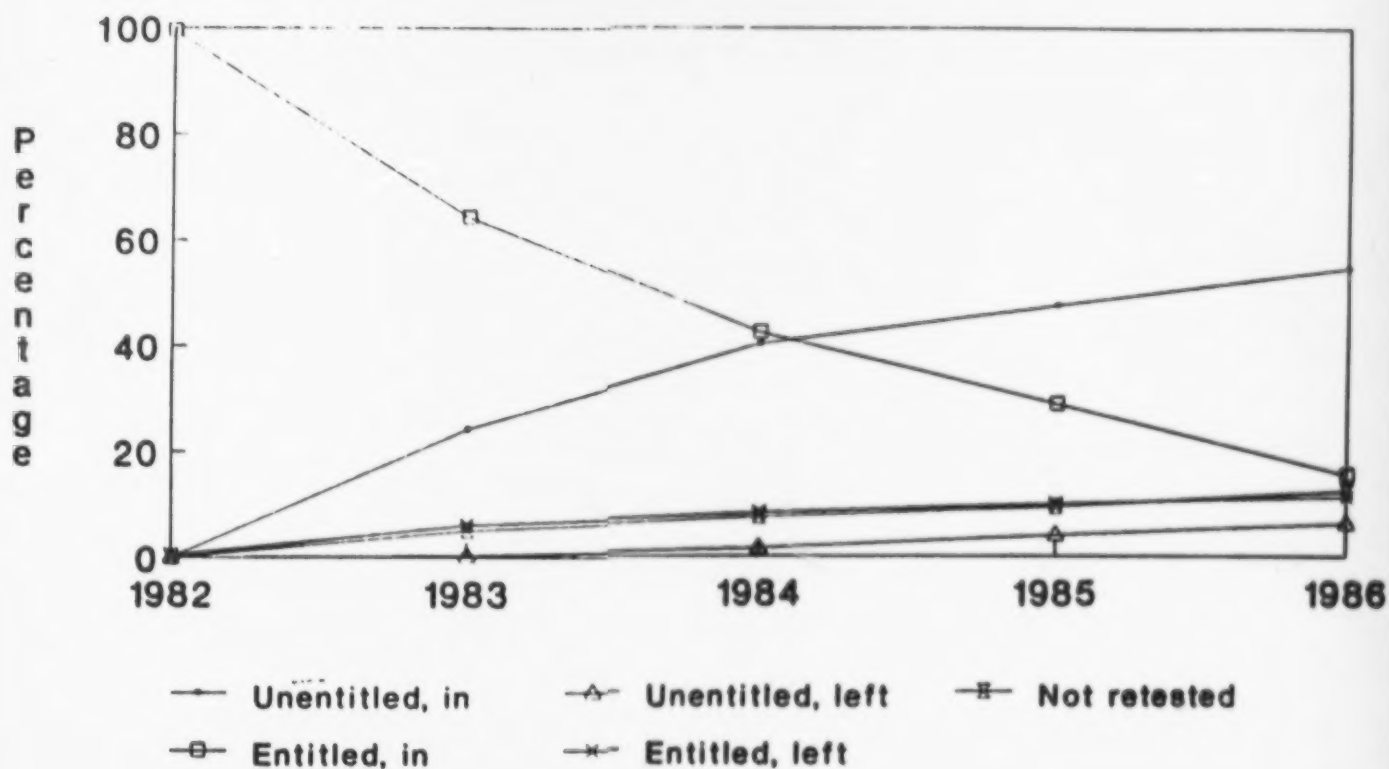
Findings on Length of Entitlement

The study looked at all students in kindergarten through twelfth grades who had been in an English-language school system less than one year and had gained entitlement to bilingual and/or E.S.L. services by scoring at or below the twentieth percentile on the LAB test administered in spring 1982.

However, in order to make more meaningful comparisons, we divided the students into three groups: those who were in kindergarten, first, second, or third grade in spring 1982; those who were in grades four through seven at that time; and those who were in grades eight through twelve at that time. These three groups roughly correspond to the elementary, middle, and high school levels.

Students originally in grades K-3. As Chart 1 shows, two-fifths (40 percent) of all of the LEP new entrant students who were in grades K-3 in spring 1982 and still in the system in spring 1986 lost their entitlement to bilingual/E.S.L. services within two years, and another one-fifth surpassed the cutoff point by the fourth year. Of the remaining students, about 15 percent were still in the system and had not yet lost their entitlement ("entitled, in the system"), roughly 11 percent each had either left the system before losing their entitlement ("entitled, left the system") or were still in the system and had not been retested ("not retested"), and about 5 percent had lost their entitlement but were no longer in the New York City public school system ("unentitled, left the system").

CHART 1
Distribution of Students by Entitlement
Status and Year, Originally in Grades
Kindergarten through Three

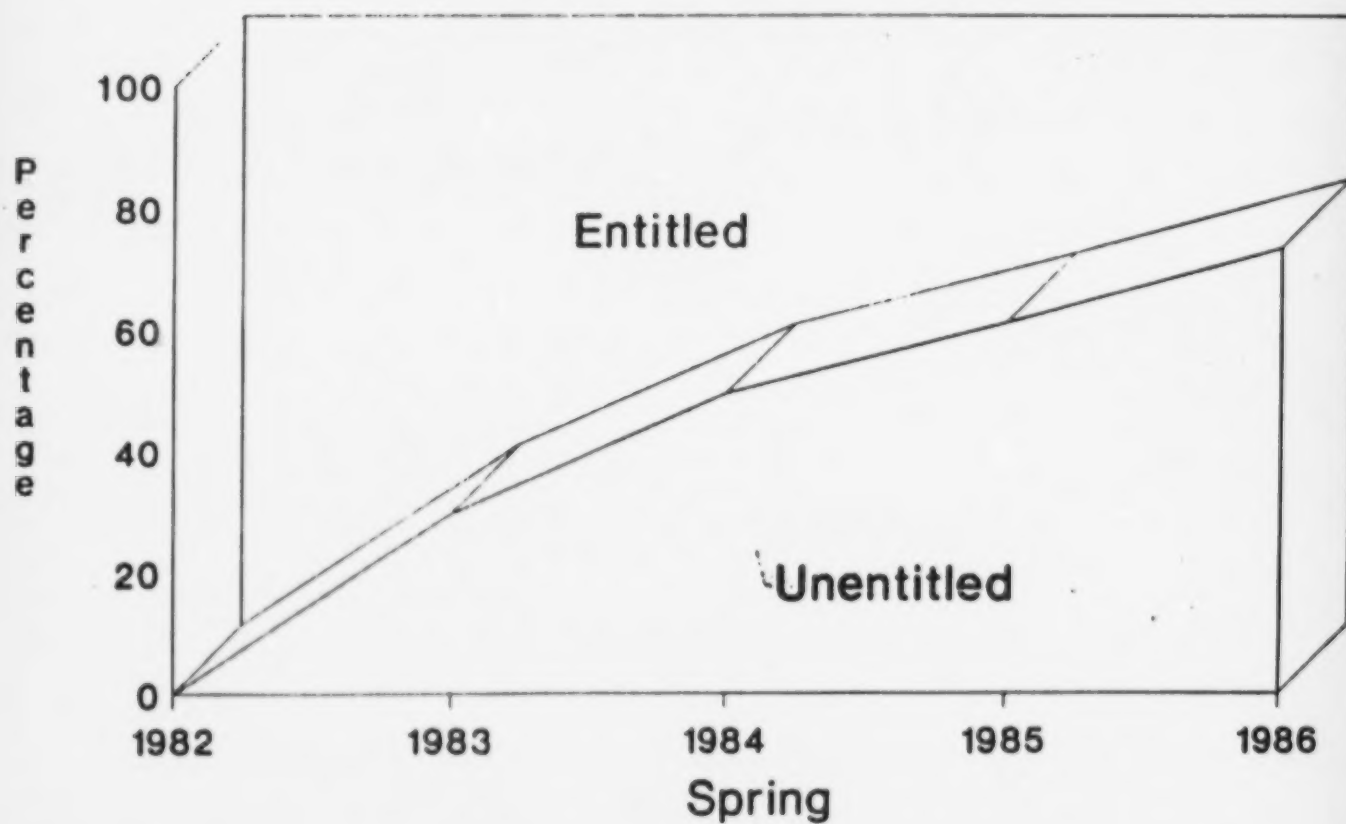


Source: Table 1

When the students who left the system or were not retested on the LAB by spring 1986 are excluded from the analysis, the picture shown in Chart 2 emerges. The chart shows that of the students remaining in the system and appropriately retested, half had lost entitlement within two years, two-thirds lost entitlement within three years, and about 80 percent lost entitlement after four years. Since the twentieth percentile criterion is set against the performance of LEP students' monolingual peers, we would expect twenty percent of the LEPs to remain below the twentieth percentile, thus paralleling the monolingual population.

Appendix Table 1 presents the data on which Chart 1 was based. As can be easily shown on the table, almost one-fourth of the students originally in grades kindergarten through three had either left the New York City public schools while still entitle (11.3 percent) or had not been retested (12.4 percent) by spring 1986, making it impossible to determine their language proficiency status in 1986. Of those who had remained in the system and been appropriately retested, the unentitled (54.6 percent) outnumbered the entitled (15.4 percent) by more than three to one by spring 1986.

CHART 2
Percent of New Entrant Students by
Entitlement Status, Originally in Grades
Kindergarten through Three



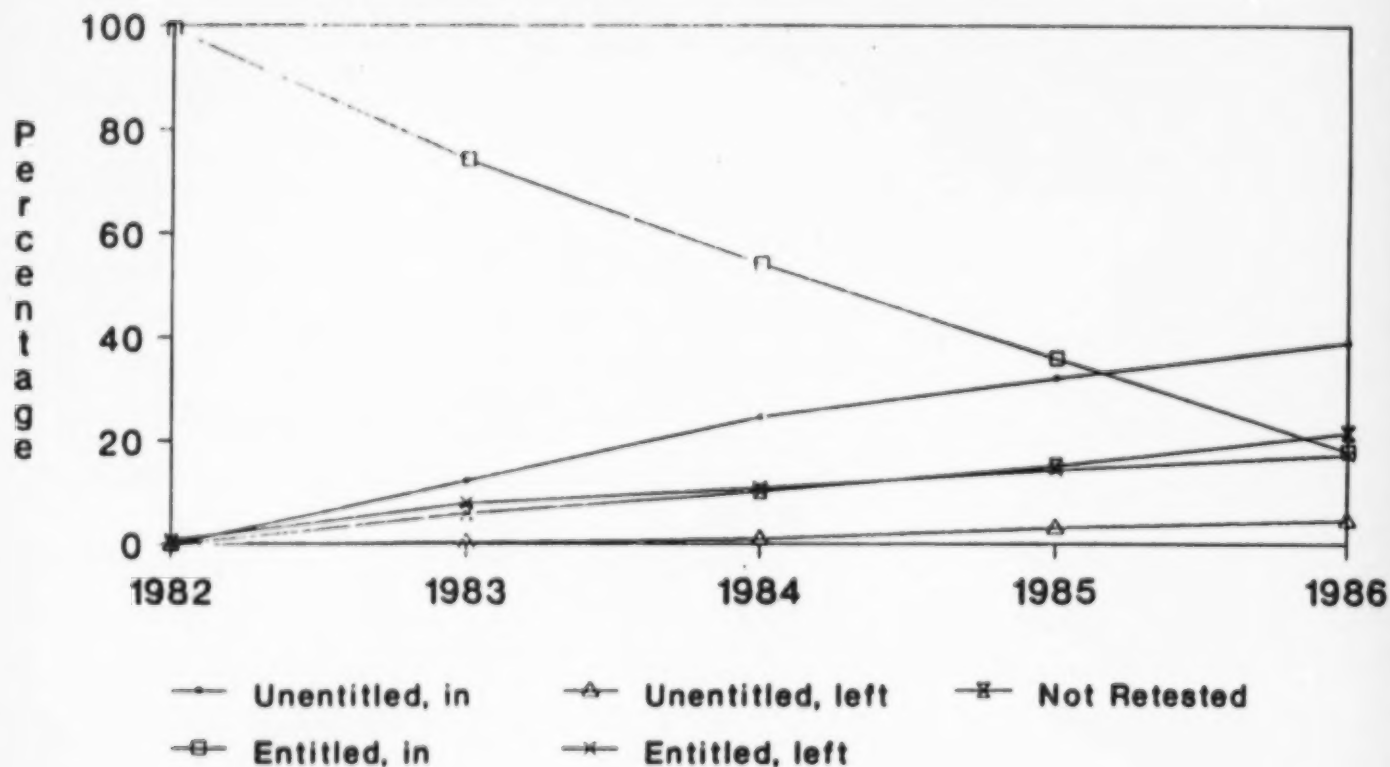
Source: Table 1

Students originally in grades 4-7. As can be seen in Chart 3, a smaller portion of students originally in grades four through seven lost entitlement after four years than students originally in grades K-3 did (e.g., 40 percent, as compared to 60 percent). One reason for this difference may be that the higher-order skills taught at the higher grade levels take longer to learn. However, Chart 3 also indicates that these older students were most likely to either not be retested (22 percent) or to leave the system before losing their entitlement (17 percent) than students in lower grades.

When only retested students who remained in the system are considered, we see that half of these students lost entitlement within three years and almost 70 percent had lost entitlement within four years (Chart 4).

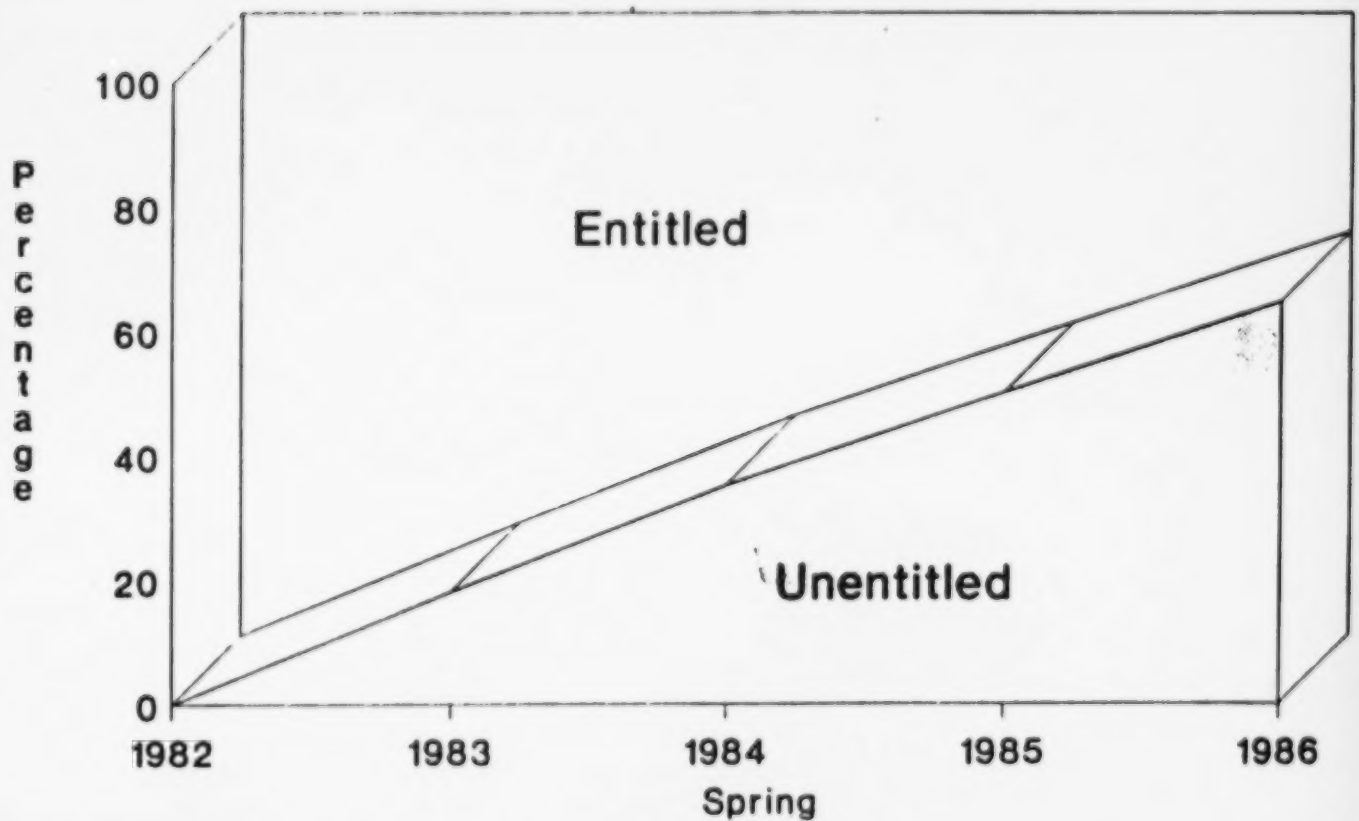
Appendix Table 2 presents that data from which Chart 3 was drawn. It shows that the entitlement status of 39 percent of students in grades four through seven in 1982 could not be determined in 1986 because they either had left the school system while still entitled (17.2 percent) or had not been appropriately retested (21.5 percent). Of those remaining in New York City public schools through 1986, the unentitled (38.9 percent) outnumbered the entitled (17.2 percent) by more than two to one.

CHART 3
Distribution of Students by Entitlement
Status and Year, Originally in Grades
Four through Seven



Source: Table 2

CHART 4
Percent of New Entrant Students by
Entitlement Status, Originally in Grades
Four through Seven



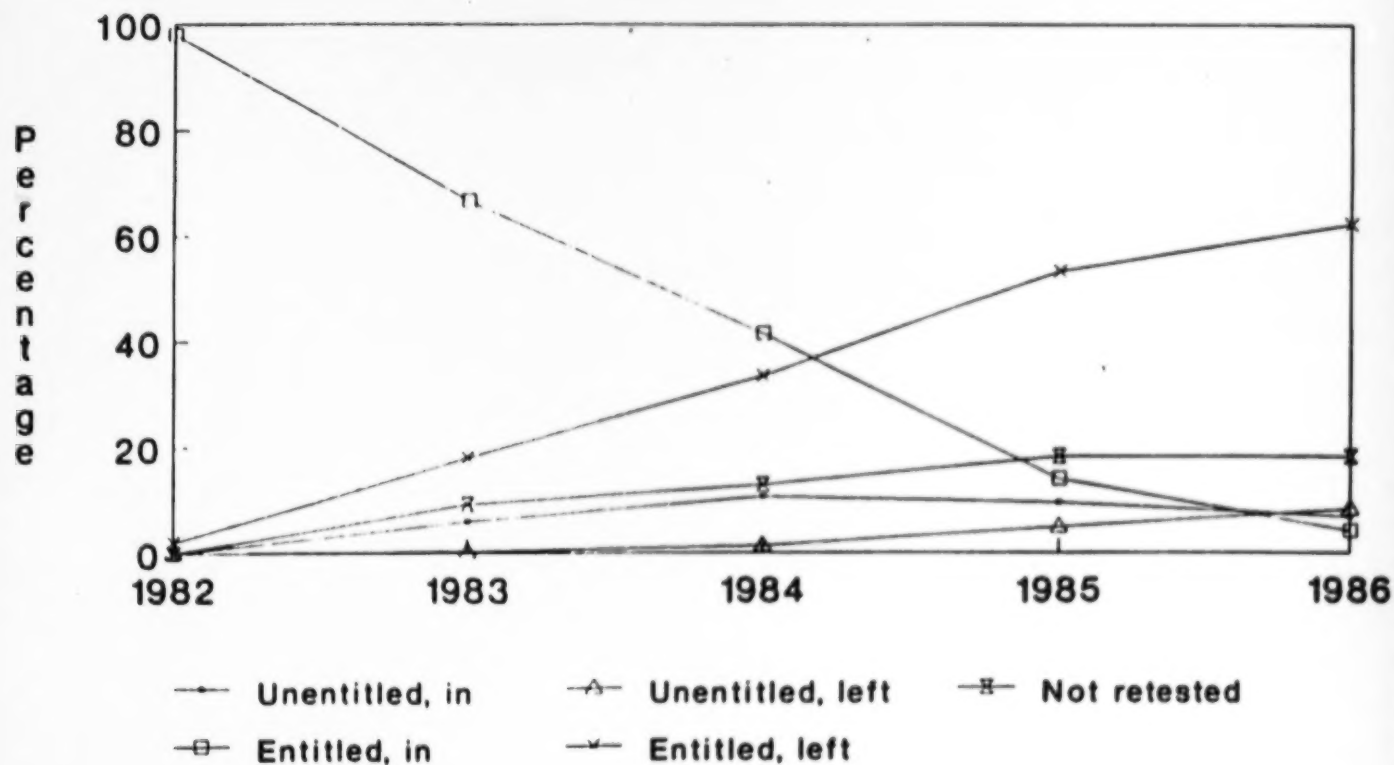
Source: Table 2

Students originally in grades 8-12. Chart 5 shows that the pattern observed in the high schools differed from that found at the lower grade levels. In this case, nearly two-thirds (62 percent) of the LEP high school students left the school system within four years without losing entitlement. In other words, most new-entrant LEP students who enter an English-language school system in or after eighth grade apparently do not remain in the system long enough to learn the higher-order skills required for students at that level to pass the entitlement cutoff point.

In order to understand this finding, we further analyzed the status of this cohort of students in terms of their reasons for leaving the system. As Appendix Table 3 shows, of the 4,654 students in our 1982 new-entrant high school group, almost one-third (30 percent) had graduated, about one-fourth (24 percent) had dropped out, and almost one-fifth (17 percent) had either moved out of New York or transferred to a private or parochial school. A few of these lost entitlement before leaving, but in most cases, their 1986 LEP status was unknown to us.

Appendix Table 4 presents the numerical data represented graphically in Chart 5. As shown on the table, 62 percent of these high school age students had left the system within the four years of the study without losing their bilingual entitlement, and about 8 percent left after losing their entitlement. About 18 percent of the students had not been

CHART 5
Distribution of Students by Entitlement
Status and Year, Originally in Grades
Eight through Twelve



Source: Table 3

appropriately retested since taking the LAB in spring 1982--a percentage which is slightly lower than that for the grades 4-7 cohort (21.5 percent), but somewhat higher than that for the grades K-3 cohort (12.4 percent). Of the small number of students remaining in the system who had been retested, those no longer entitled to bilingual services (6.9 percent of the total population) outnumbered those who remained entitled (4.2 percent of the total population) by about one-third.

IV. CONCLUSIONS AND RECOMMENDATIONS

SUMMARY OF FINDINGS

The data resulting from this study of LEP students who have recently entered an English-language school system indicate that more than one-half of the youngsters who enter at the elementary or middle school level will lose their entitlement to bilingual and E.S.L. services within three years, and nearly three-fourths will lose their entitlement within four years. In general, students in the lower grades will lose their entitlement faster than students in middle school.

The rate of loss of entitlement for those students who enter the N.Y.C. system at the high school level is more difficult to assess due to the higher rate of mobility of this group. However, it appears that students at this level lose their entitlement less rapidly than students in the lower grades.

IMPLICATIONS OF FINDINGS

Limitations

These findings appear to be similar to other available longitudinal data.* They are also consistent with findings from O.E.A.'s previous studies (cited above), and with other research

*See for example Vorich, L. & Rosier, P. (1978). Rock Point Community School: An example of a Navajo-English bilingual elementary school program. Tesol Quarterly, 12(3), 263-271.

on language acquisition.* However, it is worth reiterating that the present investigation related only to the numbers of students who succeeded in surpassing the New York City cutoff point for entitlement to bilingual and E.S.L. services--a cutpoint that was the product of a legal compromise rather than of empirical research or behavioral criteria. The results of such an investigation therefore do not necessarily reveal at what point in their development of English proficiency students can most effectively participate in instruction in English-language classrooms, nor can they tell us how LEP students have fared in our schools once they are no longer entitled to bilingual/E.S.L. instruction. Nonetheless, the information that has been gathered does suggest some avenues for further investigation and research.

*Cummins, J, (1980). Age on arrival and immigrants' second language: a reanalysis of the Ramsey and Wright data. Unpublished manuscript, Ontario Institute for Studies in Education.

Cummins, J. (1980). The entry and exit fallacy in bilingual education. Journal of the National Association for Bilingual Education, 4(3), 25-60.

Cummins, J. (1981). Four misconceptions about language proficiency in bilingual education. Journal of the National Association for Bilingual Education, 5(3), 32-45.

How Do Students Progress After Losing Entitlement?

Although the data indicate that LEP students make progress toward New York's twentieth-percentile LAB cutoff, they do not indicate how effectively students who have exceeded the cutoff point function in an all-English classroom environment. What if they have exceeded the cutoff by only a very small margin? Should the subsequent services provided to these students be different from those provided to students who passed the cutoff at a higher level? What kinds of supports do "exited" students need, and for how long?

A Changed Cutpoint

Shortly after this paper was completed, the Regents of the New York State Education Department (S.E.D.) approved raising the entitlement cutpoint for LEP students to the fortieth percentile on a standardized test of English reading achievement. This is in some senses a de facto acknowledgement that true effectiveness in English resides at a higher level than the twentieth percentile point on the LAB. It also suggests that students below the fortieth percentile would profit from various types of services designed to ease their transition into the mainstream. And it will certainly increase the number of students for whom bilingual and/or E.S.L. classes will have to be made available.

In any case, however, we expect at least 20 percent of our LEP students will remain below the twentieth percentile cutoff point--if that cutoff point is at all meaningful. Given human differences in ability, relatively low performance is a probability for some students. While this does not represent a system failure in itself, this fact does raise the question of instructional programs for LEP students whose academic progress is slower than average. Educators may also wish to consider the optimal timetable and services for students who are not likely to surpass the twentieth percentile cutoff after more than four years in an English-language school system.

A number of questions relating to the cutpoint for entitlement to bilingual services remain. While it now appears that educational administrators believe that the twentieth percentile was too low, there is little concrete evidence to support this presumption. We need to follow the progress of formerly entitled students who passed the LAB at different levels to see how they fare academically in relation to their monolingual peers. An OREA paper will begin to explore this question, and is scheduled for release in winter 1988-89.

Is there in fact one optimal cutpoint beyond which all LEP students can reasonably be expected to perform satisfactorily in monolingual English classes? If so, what is that point? It is recommended that the validity of New York City's cutoff score,

as well as various alternatives, be reviewed from a measurement perspective and from a competency or content one as well. This process would hopefully result in a better understanding of what New York City defines as English proficiency, and might assist educators who serve the formerly entitled to better understand their needs. The Office of Research, Evaluation, and Assessment has already undertaken two inter-related validation studies which will begin to clarify this most important issue. Our longitudinal studies of students who "pass" the LAB at various levels should also help address the question of an appropriate entitlement cutpoint.

The situation regarding those students who have not been retested on the LAB since spring, 1982 is also puzzling. Although New York City regulations require schools to retest LEP students each year until they lose their entitlement, more than 10 percent of the K-3 students and about 20 percent of the students in the upper grades had not been retested after four years. The reasons for this situation are unclear, and bear further inquiry.

The Dropout Problem

Nearly two-thirds of the new-entrant LEP students of high school age left the system while still entitled to bilingual/E.S.L. services. Happily, a fairly large percentage of these students (42 percent) left the system because they had earned either a high school or G.E.D. diploma. Slightly less than one-fifth (17 percent) of the students in the high school cohort moved out of N.Y.C. or transferred to another school in New York. However, nearly one-quarter (24 percent) of the high school-age LEP students who were recent entrants dropped out of school, and it is this group that raises concern.

There are many reasons why a student might drop out of high school, including financial or personal problems, family pressures to get a job, and being overage for their grade. All of these problems might be particularly acute for students who have recently come to the United States with very limited English-language skills. An additional hazard is the fact that during the period of our study, many high schools considered E.S.L. classes remedial and did not offer English credit for them. The lack of credit for such classes, plus the fact that high school students typically have to take a large number of them (thereby limiting the number of credit-bearing classes they can take in other areas), are additional pressures which may be helping to drive recent-entrant LEP students away from high school before obtaining their diploma.

Further examination of LEP high school students' reasons for leaving the school system is clearly needed. As a first step, OREA will conduct a more detailed study of the educational histories of LEP dropouts--including the services received, course performance, and credits earned--in order to better understand the pattern of these students' academic progress while they were still enrolled.

As this study is being conducted, educators may wish to give some thought to the services currently available to LEP high school students, and to consider whether they are as appropriate or helpful as possible. For example, one possibility might be to design programs that will help these students progress along a different timetable by offering them accelerated classes, equivalency programs, or night or summer classes, or programs that would allow them to take some college courses while completing high school requirements. Another possibility might be to link these students (or at least those who are 17 or older) with institutions of the wider society through such arrangements as coop instruction, internships, or part-time jobs.

Students in Progress

It is helpful to think of LEP students as students in process--with variable cognitive and linguistic needs that change over time. Thus, it is important to follow their progress through their academic careers from entry-level bilingual/E.S.L. services through mainstream educational programs. If they are progressing while entitled, and falter in the mainstream, then educators must examine the instruction they receive in monolingual classrooms with an eye to evaluating its appropriateness. If their progress in the mainstream is acceptable based on empirical data and functional standards, then disseminating information to teachers explaining expected growth patterns may be useful.